

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 22-1031**

**September Term, 2022**

**EPA-86FR74434**

**Filed On:** August 29, 2023

State of Texas, et al.,

Petitioners

v.

Environmental Protection Agency and  
Michael S. Regan, Administrator, United  
States Environmental Protection Agency,

Respondents

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Advanced Energy United, et al.,  
Intervenors

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Consolidated with 22-1032, 22-1033,  
22-1034, 22-1036, 22-1038

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**No. 22-1080**

**NHTS-87FR25710**

Natural Resources Defense Council,

Petitioner

v.

National Highway Traffic Safety  
Administration, et al.,

Respondents

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Clean Fuels Development Coalition, et al.,  
Intervenors

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Consolidated with 22-1144, 22-1145

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**BEFORE:** Srinivasan, Chief Judge, and Katsas and Pan, Circuit Judges

**O R D E R**

Upon consideration of the proposed oral argument formats, it is

**ORDERED** that the following format apply in these cases, which are scheduled for oral argument before this panel at 9:30 a.m. on Thursday, September 14, 2023:

**Part I: No. 22-1031, et al.**

*Issues:*

1. Whether petitioners' arguments are properly before the court.
2. Whether EPA's rule is authorized under Section 202 of the Clean Air Act.
3. Whether EPA's rule is arbitrary and capricious.

	<b><u>Time Allotted</u></b>	<b><u>Counsel</u></b>
<i>Fuel Petitioners</i>	17 minutes	Jeffrey Wall (issues 1-3)
<i>State Petitioners</i>	8 minutes	Lanora Pettit (issues 2-3*)
<i>Respondent EPA</i>	24 minutes	Sue Chen (issues 1-3)
<i>Respondent-Intervenors</i>	6 minutes	Sean Donahue
<i>Fuel Petitioners' rebuttal</i>	5 minutes	Jeffrey Wall

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\* Counsel for the State Petitioners also should be prepared to address whether the State Petitioners have standing.

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**Part II: No. 22-1080, et al.**

**A. Nos. 22-1144 and 22-1145**

*Issues:*

1. Compliance with 49 U.S.C. § 32902(h).
2. Energy Policy and Conservation Act's preemption provision.

	<u>Time Allotted</u>	<u>Counsel</u>
<i>Fuel Manufacturer / State Petitioners</i>	17 minutes	Eric McArthur (issue 1)
<i>Petitioner-Intervenors</i>	8 minutes	Michael Buschbacher (issue 2)
<i>Respondent NHTSA</i>	22 minutes	Joshua Koppel
<i>Respondent-Intervenors</i>	8 minutes	Theodore McCombs
<i>Fuel Manufacturer / State Petitioners' rebuttal</i>	5 minutes	Eric McArthur

**B. No. 22-1080**

*Issue:*

1. NHTSA's treatment of high-compression-ratio Atkinson-enabled engines.

	<u>Time Allotted</u>	<u>Counsel</u>
<i>Petitioner NRDC</i>	12 minutes	Pete Huffman
<i>Respondent NHTSA</i>	15 minutes	Joshua Koppel
<i>Petitioner NRDC's rebuttal</i>	3 minutes	Pete Huffman

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Argument will be conducted in the order listed. Form 72 should be completed and submitted by September 7, 2023.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Michael C. McGrail  
Deputy Clerk

The following forms and notices are available on the Court's [website](#):

[Notification to the Court from Attorney Intending to Present Argument \(Form 72\)](#)